

### **REMARKS**

Claims 1-18 and 45-53 are now pending in the application. Claims 1-5 are amended herein. Claims 19-44 are cancelled herein. Claims 45-53 are added herein. Support for the amended claims and the new claims can be found at least in the figures of the instant application. No new matter is added. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1, 2, 4-11, and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Assarabowski et al. (U.S. Pat. No. 6,797,421). This rejection is respectfully traversed.

At the outset, Applicants' respectfully point out that the Assarabowski et al. reference fails to disclose a hydrogen sensor. The Assarabowski et al. reference is concerned with water in the fuel cell system freezing during periods of non-use. To this end, the Assarabowski et al. reference discloses a temperature sensor 62 that is operable to detect the temperature within the enclosure 62. Temperature sensor 62, however, is not disclosed as being a hydrogen sensor. Additionally, the Assarabowski et al. reference discloses a catalytic burner 66 that is used to generate heat to prevent water from freezing within fuel cell 12. Catalytic burner 66, however, is not disclosed as being a hydrogen sensor. Furthermore, temperature sensor 62 and catalytic burner 66 are not disclosed as together operating as a hydrogen sensor. Moreover, the Assarabowski et al. reference is completely unconcerned with the presence of hydrogen

within enclosure 64 and the detection thereof. Thus, it is respectfully submitted that the Assarabowski et al. reference fails to disclose a hydrogen sensor.

In order to expedite prosecution, Applicants' address the rejections herein based on alternative patentable grounds. In addressing these rejections, however, Applicants' do not concede that the Assarabowski et al. reference discloses a hydrogen sensor.

It is further pointed out that the Examiner appears to be reading Applicants' specification into the claims rather than looking at the language of the claims themselves. Specifically, the Examiner appears to be reading the claims as requiring a "temperature sensor" and/or a "catalytic combustion element" when the claims may not call for such specific elements. Applicants' respectfully request the Examiner to interpret the patentability of the claims based on the language therein and to not read additional subject matter into the claims.

Claim 1 is not anticipated by the Assarabowski et al. reference because the Assarabowski et al. reference fails to disclose a hydrogen sensor positioned in an outlet of the enclosure as called for in claim 1. Specifically, claim 1 calls for "a hydrogen sensor operable to detect the presence of hydrogen, said hydrogen sensor being positioned in said outlet of said enclosure."

In contrast to the subject matter of claim 1, the Assarabowski et al. reference fails to disclose a hydrogen sensor disposed in the outlet of insulated housing 64. Neither temperature sensor 62 and/or catalytic burner 66 are disposed in an outlet of insulated housing 64. Specifically, insulated housing 64 shows a vent opening 68 and a drain 70 through which fluid within insulated housing 64 can exit. Vent 68 and drain 70,

however, do not have any type of sensor therein much less the hydrogen sensor called for in claim 1.

Accordingly, for at least this reason, claim 1 is not anticipated by and is patentable over the Assarabowski et al. reference. Claims 6-9 all depend from claim 1 and, therefore, are also patentable over the Assarabowski et al. reference. Thus, withdrawal of the instant rejection is requested.

Claim 2 is not anticipated by the Assarabowski et al. reference because the reference fails to disclose a flow path that communicates with the compressor and the enclosure and through which the compressor induces a flow of the ventilation stream as called for in claim 2. Specifically, claim 2 calls for "a compressor . . . a flow path communicating with said compressor and said enclosure and through which said compressor induces flow of said ventilation stream." In contrast to this subject matter, the Assarabowski et al. reference discloses a compressor 23 that supplies an air flow to cathode 18 of fuel cell 12 which is subsequently routed out of insulated housing 64 through flow path 24. Compressor 23 does not appear to be capable of inducing any type of ventilation flow through insulated housing 64. Thus, for at least this reason it is respectfully submitted that claim 2 is not anticipated by and is patentable over the Assarabowski et al. reference. Accordingly, withdrawal of the instant rejection is requested.

Claim 4 is not anticipated by the Assarabowski et al. reference because the reference does not disclose a flow path communicating with a cathode side of the fuel cell and the enclosure and through which a portion of the cathode effluent produced by the fuel cell can be discharged into the enclosure as called for in claim 4. Specifically,

claim 4 calls for “a flow path communicating with a cathode side of said at least one fuel cell and said enclosure and through which a portion of a cathode effluent produced by said fuel cell can be discharged into said enclosure.” In contrast to this subject matter, the Assarabowski et al. reference specifically discloses that cathode 18 of fuel cell 12 directs the cathode effluent to the exterior of insulated housing 64 through flow path 24. The Assarabowski et al. reference does not appear to disclose a flow path through which the cathode effluent can be discharged into the enclosure. Accordingly, for at least this reason it is respectfully submitted that claim 4 is not anticipated by and is patentable over the Assarabowski et al. reference and withdrawal of the instant rejection is requested.

Claim 10 is not anticipated by and is patentable over the Assarabowski et al. reference because the reference does not disclose a hydrogen sensor being positioned in a vicinity of the outlet of the enclosure as called for in claim 10. Specifically, claim 10 calls for “said hydrogen sensor being positioned in a vicinity of said outlet of said enclosure, and said hydrogen sensor including a catalytic combustion element operable to react hydrogen.” In contrast to the subject matter of claim 10, the Assarabowski et al. reference does not disclose a hydrogen sensor. Moreover, the catalytic burner 66 disclosed in the Assarabowski et al. reference is not disposed in the vicinity of the outlet (vent 68) of insulated housing 64. Rather, catalytic burner 66 is disclosed as being disposed in a lower end or region of insulated housing 64 for convectively supplying heat to the interior of housing 64. See at least Figure 1 and column 5, lines 14-19 of Assarabowski et al. reference. The disposing of catalytic burner 66 in lower portion region of insulated housing 64 does not disclose a hydrogen sensor that includes a

catalytic combustion element and which is disposed in a vicinity of the outlet of the enclosure. Thus, for at least this reason it is respectfully submitted that claim 10 is not anticipated by and is patentable over the Assarabowski et al. reference. Claims 11 and 15 both depend from claim 10 and, therefore, are also patentable. Accordingly, withdrawal of the instant rejection is requested.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Assarabowski et al. in view of McMillan et al. ("Process/Industrial Instruments and Controls Handbook"). Claims 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Assarabowski et al. in view of Shahinpoor (U.S. Pat. No. 6,612,739). These rejections are respectfully traversed.

Notwithstanding, claims 12, 13, and 14 all depend from claim 10 and, therefore, are also patentable over the prior art of record. Thus, withdrawal of the instant rejection is requested.

#### **ALLOWABLE SUBJECT MATTER**

The Examiner states that claims 16-18 are allowed. The Examiner also states that claim 3 would be allowable if rewritten in independent form. Applicants have amended claim 3 to be in independent form. When amending claim 3, some subject matter of claims 1 and 2, the intervening claims, has been removed as it is not believed that such removed subject matter is needed for patentability. Accordingly, it is respectfully submitted that claim 3 should now be in condition for allowance.

### NEW CLAIMS

New claims 45-53 are added herein. It is respectfully submitted that these new claims present patentable subject matter and, accordingly, allowance of these claims is requested.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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